

November 15, 2008

Larry B. Nogueira
P.O. Box 1601
New Bedford, Massachusetts 02741

Re: Tiverton Zoning Board Relief: Map1-3, Block/Plat 185, Card/Lot 20

Dear Mr. Nogueira:

The following is the decision on your Petition heard by the Zoning Board of Review (the "Board") on November 5, 2008 for a variance from Article V, Section 1, Article VII, Section 4 and Article XVII of the Tiverton Zoning Ordinance to construct a single family dwelling on property located on the east side of Three Rod Highway, Tiverton, Rhode Island, at Map 1-3, Block/Plat 185, Card/Lot 20 (the "Premises") closer to the front, rear and side yard setbacks and with less than required lot area in a R80 zoning district.

After the testimony was completed at the public hearing for which due notice was given and a record kept, and after having viewed the premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and after taking into consideration all of the testimony at the public hearing, makes the following findings:

1. That Premises contains 1.5 acres of land area, more or less, zoned R80.
2. That the petitioner has owned the subject property since January of 2003.
3. That the petitioner desires to construct a single family dwelling on the Premises.
4. That the Premises is substandard in area for the R80 district and that the proposed dwelling would be located closer to the front, rear and side yard than permitted in the R80 zoning district.
5. That the petitioner offered no evidence to show compliance with the standards for relief contained in the Zoning Ordinance for the sought after relief.
6. A witness was presented by the petitioner who testified that the lot was constrained by several environmental features and was located in a V flood zone.
7. Several objectors were present who testified that the proposal would not be in character with the surrounding development in the area and was not the least relief necessary.
8. The Board did not find the factual statements and opinions of the petitioner accurate or credible. The Board did not find any evidence was offered by the petitioner to show compliance with the standards for relief contained in the Zoning Ordinance for the sought after relief.

Based on the foregoing, the Board voted unanimously to deny the petitioner's application for a variance, as follows:

- a. Special conditions and circumstances do not exist which are special and peculiar to the land or structure involved, and which are applicable to other lands or

structures in the same zoning district, and are due to a physical or economic disability of the petitioner.

- b. Issuance of the requested relief will be contrary to the public interest, and that, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would not result in an unnecessary hardship on the petitioner.
- c. The unnecessary hardship, which the petitioner seeks to avoid, has been imposed by prior action of the petitioner and is based purely for monetary gain or loss.
- d. The granting of the requested variance will alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- e. Relief from the provisions of this ordinance is not the least relief necessary to remove the unnecessary hardship.
- f. That nonconforming use of neighboring lands, structures or buildings in the same district, and permitted use of lands, structures or buildings in an adjacent district did not form the grounds for the application of this variance request.
- g. That the hardship that will be suffered by the petitioner of the subject property if the dimensional variance is not granted does not amount to more than a mere inconvenience.

This decision must be recorded in the Land Evidence Records in the Town Clerk's Office. (Please note that the appeal period (20 days) begins when this decision is recorded and posted with the Town Clerk's Office).

Sincerely,

David Collins, Chairman
Tiverton Zoning Board of Review